

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SAXON INNOVATIONS, LLC,

Plaintiff.

vs.

NOKIA CORP., ET AL.,

Defendants.

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Civil Action No. 6:08-cv-494 LED

JURY TRIAL DEMANDED

DEFENDANTS' UNOPPOSED MOTION TO STAY UNDER 28 U.S.C. § 1659

Defendants Nokia Corp., Nokia Inc., Palm, Inc., Research In Motion Limited, Research In Motion Corporation, HTC Corp., HTC America, Inc., Panasonic Corporation,¹ Panasonic Corporation of North America, and Panasonic Consumer Electronics Company (collectively, Movants) hereby move this Court to stay these proceedings pursuant to 28 U.S.C. § 1659. In support of this motion, Movants respectfully state:

This action was filed on December 19, 2008 by Plaintiff Saxon Innovations, LLC ("Saxon") asserting infringement by the Movants of one or more of United States Patent Nos. 5,235,635; 5,530,597; and 5,608,873 (together the "Patents In Suit"). On the same day this action was filed, Saxon filed a complaint with the U.S. International Trade Commission ("ITC") pursuant to Section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337 ("Section 337"), against each of the Movants (the "ITC Proceedings"). The ITC initiated its proceeding on January 15,

¹ The Complaint also names as a defendant AVC Networks Company ("AVC"). However, AVC is an unincorporated division of Panasonic Corporation. As such, AVC is not a proper juridical entity or separate party to this action. Counsel for Panasonic Corporation has informed plaintiff's counsel of that fact and requested that plaintiff drop AVC as a separate party to this action. To the extent it is deemed necessary or appropriate for AVC to take a position on the instant motion, AVC supports the motion.

2009 (Exhibit A at p. 4) (Notice of Investigation issued January 15, 2009). Saxon also asserts the same Patents in Suit in the ITC Proceedings. Specifically, Saxon alleges in the ITC Proceedings that the Movants have engaged in the unlawful importation, sale for importation, and/or sale in the United States after importation of certain electronic devices, including handheld wireless communications devices, that allegedly infringe one or more of the Patents In Suit. Accordingly, because the same patents are being asserted by Saxon against the same respondents/defendants in both actions, the claims in each of the proceedings involve the same issues.

Upon the request of any party to a civil action that is also a respondent in an ITC investigation under Section 337, the Court “shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues in the proceedings before the Commission.” 28 U.S.C. § 1659(a). This stay must be granted if it is requested within thirty days from the later of (1) the party being “named” a respondent in the ITC Proceeding, or (2) the filing of the district court action. 28 U.S.C. § 1659(a)(1) – (2); *see also In re Princo*, 478 F.3d 1345, 1355 (Fed. Cir. 2007) (directing district court to stay proceedings until ITC investigation becomes final). In this case, Movants’ request is timely because Movants filed this motion within 30 days after Movants were named as respondents in the ITC Proceeding. (Exhibit A at p. 4) (Notice of Investigation issued January 15, 2009).

Based upon the foregoing, Movants respectfully request that the Court stay this action pending the final resolution of the ITC Proceeding. As certified below, Saxon does not oppose the stay. Movants also respectfully inform the Court that Saxon is agreeable to extending the

date for each Movant to Answer or otherwise respond to the Complaint to a date after the Court's ruling on the present Motion.

Dated: February 9, 2009

Respectfully submitted,

/s/ David J. Palmer

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Certificate of Service

The undersigned certifies that a true and correct copy of Defendants' Unopposed Motion to Stay Under 28 U.S.C. § 1659 was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service.

Dated: February 9, 2009

/s/ David J. Palmer

David J. Palmer

Certificate of Conference

I certify that I conferred with counsel for Plaintiff Saxon Innovations, LLC and Saxon does not oppose this motion.

Dated: February 9, 2009

/s/ David J. Palmer

David J. Palmer

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